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HUTCHISON et ux. v. HARRISON.

June 16, 1921.

[107 S. E. 742.]

1. Habeas Corpus (§ 99 (3, 6)*)—Interest of Child Primary Consideration in Determining Custody, and Her Wishes Should Be Consulted.—Where there is a controversy over the right to custody of a child between her parents and her maternal grandparents, who have had her with them a great part of her life, the interest of the child is the primary consideration, and, if she is of the age of discretion, she should be consulted, and due weight given her decision.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 636.]

2. Habeas Corpus (§ 99 (1)*)—Father Held Not Entitled as of Right to Custody of Daughter as against Grandparents.—On petition for habeas corpus by a father to secure the custody of child of 13 or 14 years from her maternal grandparents, petitioner's wife, the mother of the child, being of a highly nervous temperament, and the child likely, as shown by her past history, to suffer in health during residence in Tennessee with her parents, while her relations with the grandparents are more affectionate than those with her parents, held, that the order of the trial court awarding custody to the father will be reversed, and the proceeding remanded, with directions to keep the same on the docket for such further orders as may prove to be necessary; the child having the right to elect at any time to go to her parents or to remain in Virginia with her grandparents.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 636.]

Error to Circuit Court, Prince William County.

Petition for habeas corpus by W. S. Harrison against Westwood and Susan Hutchison. To review order for petitioner, respondents bring error. Reversed and remanded.

Robert A. Hutchison, C. A. Sinclair, and H. Thornton Davies, all of Manassas, for plaintiffs in error.

Thomas H. Lion, of Manassas, and *T. E. H. McCroskey*, of Madisonville, Tenn., for defendant in error.

DAVIS et al. v. KENDALL et al.

June 16, 1921.

[107 S. E. 751.]

1. Wills (§ 616 (1)*)—Intent Controls as to whether Power of Disposal Given to Life Tenant Enlarges Estate.—In determining whether an added power of disposal given to life tenant enlarges the estate

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.